

CITATION –TRC 99 and 106

THE STATE OF TEXAS

COUNTY OF DENTON

CAUSE NO. 15-03028-393**TO: Carroll Fulmer Logistics Corporation – Registered Agent: Philip R. Fulmer, 8340 American Way, Groveland, Florida; (or wherever he/she may be found)**

Notice to defendant: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Court:	393rd Judicial District Court 1450 E. McKinney, 4th Floor, Denton, TX 76209
Cause No.:	15-03028-393
Date of Filing:	April 14, 2015
Document:	Plaintiff's Original Petition
Parties in Suit:	Old Republic Life Insurance; Carroll Fulmer Logistics Corporation; John Doe
Clerk:	Sherri Adelstein, District Clerk 1450 E. McKinney, Suite 1200, Denton, TX 76209
Party or Party's Attorney:	Tommy D. Sheen P.O. Drawer 1552, Odessa, TX 79760-1552

Issued under my hand and seal of this said court on this the 16th day of April, 2015.



Sherri Adelstein, District Clerk
Denton, Denton County, Texas

BY: Heather M. Goheen, Deputy
Heather Goheen

Service Return

Came to hand on the _____ day of _____, 20____, at _____ m., and executed on the _____ day of _____, 20____, at _____ M by delivering to the within named _____

_____ in person a true copy of this citation, with attached copy(ies) of the Plaintiff's Original Petition, at _____.

Service Fee: \$ _____ Sheriff/Constable
_____ County, Texas

Service ID No. _____ Deputy/Authorized Person

VERIFICATION

On this day personally appeared _____ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of eighteen years and I am not a party to or interested in the outcome of this suit, and have been authorized by the Denton County Courts to serve process.

Subscribed and sworn to before me on this the _____ day of _____, 20____

Notary Public

Rep Dixon
02-7-03
Job No. _____
Certified Process Server

5th Judicial Circuit
DATE SERVED

TIMESERVED

SERVED ON

4/27/15
10:00 AM

FILED: 4/14/2015 2:06:19 PM
SHERRI ADELSTEIN
Denton County District Clerk
By: Elizabeth Jones, Deputy

CAUSE NO. 15-03028-393

OLD REPUBLIC LIFE INSURANCE,
As SUBROGEE OF RICHARD SANFORD
Plaintiff

IN THE DISTRICT COURT OF

V.

DENTON COUNTY, TEXAS

CARROLL FULMER LOGISTICS
CORPORATION AND JOHN DOE,
Defendants

393rd JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, OLD REPUBLIC LIFE INSURANCE, as Subrogee of Richard Sanford and complains of and about CARROLL FULMER LOGISTICS CORPORATION and its employee JOHN DOE, and for cause of action would show the following:

A. Discovery Control Plan

1. Plaintiff intends to conduct discovery under Level 3 of the Texas Rules of Civil Procedure § 160.

B. Parties

2. Plaintiff, OLD REPUBLIC LIFE INSURANCE, as Subrogee of Richard Sanford, is an insurance company duly authorized and registered to do business in the State of Texas.

3. Defendant, CARROLL FULMER LOGISTICS CORPORATION, is a foreign corporation organized and existing under the laws of the State of Florida, whose principal office is located at 8430 American Way, Groveland, Florida 34746, Lake County, State of Florida, is authorized to do business in Texas and may be served with process by serving its registered

agent for service, Philip R. Fulmer, 8340 American Way, Groveland Florida 34736, Lake County, Florida

4. Defendant, JOHN DOE, was the driver of the Carroll Fulmer Logistics Corporation vehicle involved in the incident and whose whereabouts and name are unknown.

C. Jurisdiction

4 The Court has jurisdiction over the lawsuit because the amount in controversy exceeds the Court's minimal jurisdictional requirements.

D. Venue

5. Venue is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

E. Facts

6. Plaintiff OLD REPUBLIC LIFE INSURANCE provided insurance for the welfare and benefit of Richard Sanford, the driver of the vehicle involved in a collision that occurred on April 16, 2013 in Denton County, Texas. The driver, Richard Sanford, was sleeping inside of his tractor/trailer rig which was parked in a provided resting area located at the TA Truck Stop located at 6420 IH 35, Denton County, Denton, Texas, when suddenly and without warning his vehicle was struck by a tractor/trailer rig with Defendant CARROLL FULMER LOGISTICS CORPORATION'S logo on the side of the truck. Richard Sanford attempted to stop the driver of the Defendant's vehicle by honking his horn to no avail. Richard Sanford then jumped out of his vehicle to attempt to stop the Defendant's vehicle which caused injury to his

right knee. Defendant's driver did not stop and Richard Sanford then called to report the collision and subsequent injuries.

F. Conditions Precedent

7. Plaintiff specifically alleges that all notice requirements and conditions precedent to filing this suit have been satisfied and/or completed.

G. Plaintiff's Claim of Negligence Against Defendant John Doe

8. Defendant JOHN DOE had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under the circumstances similar to those described herein. The incident and injuries at issue were proximately caused by Defendant JOHN DOE's negligent, careless and reckless disregard of said duty.

9. The negligent, careless and reckless disregard of duty of Defendant John Doe consisted of:

- a. In that Defendant John Doe failed to keep a proper lookout for Richard Sanford's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- b. In that Defendant John Doe turned when it was unsafe to do so;
- c. In that Defendant John Doe failed to keep his vehicle in the marked lanes of commerce in the parking lot; and
- d. In that Defendant John Doe failed to maintain proper control of his vehicle.

H. Plaintiff's Claim of Negligent Hiring and Retention of Defendant Carroll Fulmer Logistics Corporation

10. On or about April 16, 2013, Defendant Carroll Fulmer Corporation was the owner and/or leasee of the vehicle that was operated by Defendant John Doe. Defendant Carroll

Fulmer Logistics Corporation entrusted its vehicle to Defendant John Doe, a reckless and incompetent driver.

11. Defendant Carroll Fulmer Logistics Corporation knew, or through the exercise of reasonable care should have known, that Defendant John Doe was a reckless and incompetent driver. As described, Defendant John Doe was negligent on the occasion in question and such negligence was a proximate cause of Richard Sanford's injuries and Plaintiff's damages.

I. Respondeat Superior / Vicarious Liability

12. In the alternative and without waiving any prior plead causes of action, Plaintiff would show that Defendant, John Doe, was in the course and scope of his employment with Defendant, Carroll Fulmer Logistics Corporation, and was furthering the business interests of Defendant, Carroll Fulmer Logistics Corporation, at the time of the incident made the basis of this suit. Thus, Defendant, Carroll Fulmer Logistics Corporation, is vicariously liable for the actions and negligence of its employee Defendant, John Doe, which caused the injuries of Plaintiff.

J. Damages

13. Richard Sanford sustained severe and debilitating injuries to his right knee as a result of the negligence of Defendants for which Sanford sought and received medical treatment. Plaintiff OLD REPUBLIC LIFE INSURANCE paid lost wages and for medical treatment to Richard Sanford of \$76,964.80 of which Plaintiff is entitled to re-imbursement from Defendants.

K. Jury Demand

14. Plaintiff demands a jury trial and tenders the appropriate fee with this Petition.

L. Request for Disclosure

15. Pursuant to Tex.R.Civ.P. 194, you are requested to disclose the information or material described in Tex.R.Civ.P. 194.2. Pursuant to Tex.R.Civ.P. 194.3, written disclosure of such information and material shall be served upon counsel for Plaintiff within fifty (50) days after service of this petition.

M. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for Plaintiff against Defendants for damages in an amount within the jurisdictional limits of the Court, together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate; costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

SHAFER, DAVIS, O'LEARY & STOKER, P.C.
P. O. Drawer 1552
Odessa, TX 79760-1552
Phone: (432) 332-0893 * Fax: (432) 335-8329

By: /s/ Tommy D. Sheen

Tommy D. Sheen
State Bar No. 24056623
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ATTORNEY FOR PLAINTIFF
OLD REPUBLIC LIFE INSURANCE